

May 2007

Campaign	
Herb Engstrom CA Democratic Council Dated: May 1, 2007 File Number A-07-058	<p>Informal advice relating to the California Democratic Council's continuing obligation to file campaign reports. Whether the CDC has at some point received or made contributions for expenditures in amounts sufficient to qualify it as a general purpose recipient committee, with associated reporting obligations, is a question of fact that the Commission cannot answer from the limited facts provided.</p>
Henry T. Perea Fresno Council President Dated: May 7, 2007 File Number A-07-067	<p>A city councilmember was advised that he may transfer funds from his council committee to his mayoral committee. Assuming it is permissible under local law, the Act permits the transfer of funds for election to a different office. To do so, he must file a new Candidate Intention Statement (Form 501), open a new campaign bank account, and file a new Statement of Organization (Form 410) for the future election. This must be done no later than the date of leaving office, or the funds will become "surplus" campaign funds and be subject to restrictions.</p>
Jennifer Gunter & Danny Gilmore Candidates for State Assembly Dated: May 22, 2007 File Number A-07-069	<p>A vendor was mistakenly overpaid for services in connection with a failed 2006 state Assembly candidacy. The treasurer was advised that because the amount of the overpayment was owed to the committee prior to the end of the postelection reporting period, the repayment received in 2007 would not be considered surplus and could be carried over to the subsequent 2008 committee.</p>
C. April Boling Dated: May 31, 2007 File Number I-07-071	<p>This Advice Letter RESCINDED the <i>Gutierrez</i> Advice letter, No. I-01-221</p> <p>A general purpose committee is not required to return a contribution in excess of the limits stated in Section 85303, when the donor has not earmarked the contribution for any particular purpose. Regulation 18534 permits committees to deposit contributions not earmarked by the donor into either an "all purpose" or a "restricted use" account, as described in the regulation.</p>

Conflicts of Interest	
Heather Irwin Anthony Williams State Bar of CA Dated: May 1, 2007 File Number A-07-060	<p>The State Bar of California requested information regarding its updated lobbying practices. Staff advised that where the State Bar no longer engages an independent contractor lobbyist, but instead a part-time employee who is covered in the conflict-of-interest code, the State Bar is not a lobbyist employer.</p>
Teresa Berth Councilmember City of Encinitas Dated: May 3, 2007 File Number A-07-065	<p>A city council member requested advice regarding the conflict-of-interest provisions. The council member's property is inside the city's Specific Plan area. Staff advised that there is a conflict of interest on upcoming decisions involving the Specific Plan, unless the decisions can be segmented and non-substantive decisions be postponed until substantive decisions are made.</p>
Jerry B. Edelen Vice Mayor City of Del Rey Oaks Dated: May 11, 2007 File Number I-07-059	<p>A member of the city council who is also director of a redevelopment agency may address the city council or the public at large regarding his personal views concerning a city project that gives rise to a disqualifying conflict of interest, so long as he operates within certain parameters. These parameters include, but are not limited to, that he present himself as a member of the general public, with no reference – explicitly or implicitly – to his official status and speaks on behalf of himself as a private citizen and not on behalf of any other person or group.</p>

Conflict of Interest Code	
Norm Gritsch Keenan & Associates Multiple Agencies Dated: May 15, 2007 File Number I-07-055	<p>Under Regulation 18329.5, the Commission will not render advice regarding an agency's conflict of interest code or the application of that code to a specific individual until the person, or the person's representative, first requests a determination from the agency and the agency's code reviewing body. Thus, a company's request for the Commission's assistance in determining the reporting obligations of its employees under the conflict of interest codes of the various agencies for which the company's employees provide services is premature for the Commission's consideration.</p>
Richard Matranga Councilmember Lea Seaton & Councilmember Jack P. Lynch City of Angels Camp Dated: May 30, 2007 File Number A-07-064	<p>City council members with property interest over 500 feet from a property subject to a site plan application decision may participate in the decision only if they find the effect of the decision on traffic, the character of the neighborhood, and the development or income producing potential of nearby properties will not have a distinguishable and substantial effect on their respective properties.</p>

Section 84308	
Stuart Waldman CA Board of Accountancy Dated: May 25, 2007 File Number A-07-073	<p>Public official who is a candidate for elective state office wished to know whether Section 84308 applied to him as a board member of a state licensing and enforcement agency. Official was advised that restrictions and/or requirements of Section 84308 applied to him as a board member of a non-exempt state agency. Therefore, he may not accept, solicit or direct a contribution of more than \$250 for his campaign if the contributor is involved in a decision regarding a license, permit or other entitlement for use which is pending before the official's agency and for three months following the date of the agency's final decision on the matter. In addition, if the official receives a similar contribution of more than \$250 within the 12 months prior to rendering a decision in the proceeding, he must: (1) disclose receipt of the contribution on the record of the proceeding and disqualify himself from the decision, or (2) return the contribution within 30 days from the time he knows or should have known about the contribution and the proceeding.</p>

Honoraria	
Dated: File Number	

Statements of Economic Interests	
James LaPorte Kings County Superior Crt Dated: May 11, 2007 File Number A-07-074	<p>A superior court judge need not report on his Statement of Economic Interests any interest in a trust of which his wife is a co-trustee and contingent beneficiary because (i) she receives no income from the trust and (ii) despite the fact that the trust is irrevocable, the trustees have discretion to consume and invade the principal of the trust for the benefit of her mother, a trustor and co-trustee of the trust. Under Regulation 18234, a person does not have an interest in an irrevocable trust if such powers exist.</p>

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Juanita G. Lira